UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ENERGY REGULATORY COMMISSION

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|---|---|---|
| Avista Corporation, | ) | |
| Bonneville Power Administration, | ) | |
| Idaho Power Company, | ) | |
| The Montana Power Company, | ) | |
| Nevada Power Company, | ) | Docket No. RT01-35-000 |
| PacifiCorp, | ) | |
| Portland General Electric Company, | ) | |
| Puget Sound Energy, Inc., | ) | |
| Sierra Pacific Power Company. | ) | |

COMMENTS OF THE

NORTHWEST POWER PLANNING COUNCIL

ON THE AMENDED SUPPLEMENTAL COMPLIANCE FILINGS

## INTRODUCTION

1 - The Northwest Power Planning Council (Council) appreciates this opportunity to comment to the Commission on the RTO West amended supplemental compliance filings by Avista Corporation, Bonneville Power Administration, Idaho Power Company, Montana Power Company, and Puget Sound Energy, Inc., (Concurring Utilities) and by Nevada Power Company, Portland General Electric Company, and Sierra Pacific Power Company (Other Filing Utilities), together referred to as the Filing Utilities, pursuant to Order No. 2000.

2 - The Council is a four-state interstate compact agency, authorized by Congress to provide oversight over the resource planning of the Bonneville Power Administration (Bonneville) and to design a regional fish and wildlife program to help restore fish and wildlife affected by the region's hydroelectric system. The Council members are appointed by the governors of Idaho, Montana, Oregon and Washington.

3 - The Council has an ongoing interest in the development of a competitive wholesale power market and the development of a transmission system that, through open access and efficient pricing based on economic principles, will best support that market. The Council is a member of both the Northwest and Western Regional Transmission Associations (NRTA and WRTA). The Council has encouraged the formation of a wide-scope Northwest RTO and has supported, and continues to support, the efforts of the Filing Utilities to form RTO West.

4 - Our staff has actively participated in the discussions leading up to the proposal for RTO West, both through several work groups and through the Regional Representatives Group (RRG) to which the Council was an alternate representing the Committee on Regional Electric Power Cooperation (CREPC), a group of Western state and provincial regulatory commissions and energy offices. In addition, our staff is active in the Western Market Interface Committee, a joint committee of the Western RTAs and the Western Systems Coordinating Council, and represents the Western regulators on the NERC Market Interface Committee.

COMMENTS

5- The Filing Utilities have filed amended versions of the Transmission Operating Agreement (TOA) and the Agreement to Suspend Provisions of Pre-Existing Transmission Agreements and asked the Commission to provide preliminary guidance on the acceptability of the concepts and specific provisions of these agreements.

6 - Because the amendments do not address the issues that the Council raised in its previous comments regarding allocation of Firm Transmission Rights (FTRs), the Council

reiterates them below, for ease of consideration by the Commission. The Council believes that the issues are ripe for exactly the sort of preliminary guidance that the Filing Utilities are seeking from the Commission. In addition, the Concurring Utilities and the Other Filing Utilities have raised a disagreement among themselves over whether export fees should be further considered at this time or whether consideration should be postponed pending continued Western RTO discussions on export fee reciprocity provisions. The Council comments below on that issue, as well. The Council generally supports the filing, but silence in these comments does not indicate either support for or rejection of any other specific provisions in the filing.

<u>Transmission Operating Agreement</u>

- 7 - Because of the proposed priority of the TOA over other documents, including the tariff, and because of the relative difficulty of changing the TOA once it is approved, the Council believes that the TOA should be carefully reviewed in the context of the other documents to ensure that no more is included in the TOA than is necessary.At this time, for the purposes of the preliminary guidance requested of the Commission, the Council believes that at least three specific things are appropriate to lock in by inclusion in the TOA and two specific things are not appropriate to be locked in:
  - 8 - The Council supports the general form of the pricing structure and supports its ten-year proposed duration in the TOA. The proposed ten-year lock-in of the company rate mechanism, with the associated transfer payments, is appropriate and is a major step to resolving the cost shifting problems that led to the earlier failure of the Northwest's attempt at forming IndeGO.
  - 9 - The Council supports provisions in the TOA that would lock in the requirement that native loads and other current rights holders maintain equivalent benefits to those they have now when they receive the Firm Transmission Rights (FTRs) that would replace the rights they currently hold. The Council is not taking a position on the form that those benefits should take, but is concerned about the potential for a failed market in secondary

transmission rights, depending on the choices that are made about how these benefits are conveyed to loads (see discussion of "FTR Allocation" below).

  - 10 - The Council believes that the TOA should make clear that the benefit should be conveyed to the loads, acting through the legally approved or otherwise authorized load serving entity, rather than to the executing transmission owner (ETO), as the TOA currently provides (see discussion of "Getting Benefits to Loads" below).
  - 11- The Council believes that it is inappropriate to lock in to the TOA any specific market structure proposals and definitions. Such actions could hamstring the ability of the RTO West Board and the Commission to remedy any market structure problems that might develop.

- 12 - The Council supports the use of a flow-based physical rights congestion management mechanism. Going to flow-based rights and scheduling will allow better matching of physical impacts and economic consequences than does the existing system of rated contract paths, particularly going forward. Use of a physical rights scheme, while not our preferred mechanism, can achieve similar market results to a financial rights scheme if it is carried out adequately. In addition, a physical rights scheme appears at this time to offer an easier path to achieving a west-wide congestion and transmission rights market than any other approach. (The flow based proposal is not specifically in the TOA; the physical rights proposal is part of the TOA.)
- 13 - The Council supports the argument of the Concurring Utilities that the Commission not require consideration of export fees at this time. The three Western RTOs are currently meeting under the auspices of the Western Market Interface Committee in an attempt to resolve a broad spectrum of seams issues prior to additional compliance filings with the Commission. A mechanism to eliminate the need for export fees is one of these issues. We believe that these discussions should be given a chance to resolve the issues.

FTR ALLOCATION

The Potential Problem

14 - The congestion management scheme proposed by RTO West is based on physical rights to schedule power, embodied in a standardized product called a Firm Transmission Right or FTR. Generally this means that, because there will be only enough FTRs available on a path to match its capacity, the annual auction of FTRs and subsequent secondary trading in the forward markets will be the predominant mechanism for managing congestion. In consequence, those market participants without FTRs will not be able to schedule on congested paths at all unless they can arrange independent bilateral redispatch arrangements with other market participants or are willing to wait until as little as two hours before real time to see if FTRs are not actually going to be used.

15 - This can be contrasted with a financial rights scheme where the key rights are rights to avoid the congestion charges caused by out-of-merit-order generation redispatch to relieve potential overloads. The congestion management mechanism is the generation redispatch market itself and congestion is managed by the willingness of market participants to pay the congestion charges. In this scheme, lack of the rights would not preclude scheduling entirely, but would merely mean that one would have to pay the congestion cost of the individual transaction. Access would not be limited to those with the rights. The financial rights are primarily a financial hedge mechanism rather than an access gate-keeper.

16 - In principle, given adequate market liquidity, either a physical rights scheme or a financial rights scheme for managing congestion will work satisfactorily. There are other differences between them and the RTO West participants chose the physical rights scheme based on these other differences.

17 - However, in the absence of adequate market liquidity for the rights, a physical rights scheme is much more significantly handicapped than a financial rights scheme and may offer very little in the way of market access for new market participants. This is precisely the outcome

that RTO West may be setting up by its combination of a physical rights scheme and a broad disposition of FTRs to incumbent rights holders with no restrictions on their ability to withhold them from the market (other than a use-or-lose provision that may leave non-incumbents with as little as two hours notice on their ability to pick up FTRs that will not be used).

18 - Several things contribute to the likelihood of this problem arising. First, the TOA provides for broad grants of FTRs by RTO West to the Filing Utilities, both to cover existing contracts for transmission service for any purpose, for load service obligations, and for other specified and unspecified “obligations.” These FTR grants will also cover annual load growth out of otherwise unencumbered transmission capacity for the first ten years of the RTO’s existence.

19 - Second, while any remaining available transmission capacity will be auctioned off in annual auctions, with the proceeds going to reduce the company rates paid by the utilities’ loads, the capacity represented by the FTRs granted to the Filing Utilities will be under no obligation to be placed in the auction.

20 - Besides limiting the entry of new market participants, the ability of the incumbent utilities to withhold FTRs from the auction is likely to have a further effect on the efficiency of the markets. The auction price and the subsequent secondary market prices of the FTRs are the price of transmission congestion in this physical rights model. The relative weighing of the price of congestion, the cost of transmission expansion, the cost of different generation locations that will relieve or exacerbate congestion and the cost of local demand reduction or distributed generation decisions will be the only market mechanism for making these various decisions appropriately. Inadequate liquidity in the congestion market will tend to seriously distort not just access but all these other interrelated decisions by various market participants.

21 - There are, however, some mitigating factors in this proposal. The conversion process will require the potential FTR grantee to demonstrate a feasible dispatch pattern, by month and for each of the on-peak and off-peak periods, based on monthly noncoincidental

historical loads. This will tend to free up FTRs from capacity that may have been obligated in some way but not actually used historically. Nonetheless, overall the FTR allocation in the TOA looks likely to seriously constrain liquidity and access in the congestion management market.

Concerns of the Incumbent Rights Holders

22 - Those with a load service obligation, and the state regulators on behalf of the customers, in the case of the investor-owned utilities, are concerned that they not lose both the rights they now hold to transmission service needed to serve loads and the value of rights held by the ETO that historically have benefited such loads (e.g., through retail revenue credits). They are not convinced that a mechanism can be devised that would enable them to maintain those current rights if they were required to be placed in an auction.

23 - State regulators, as well, have obligations under state law to protect the interests of the consumers of the regulated utilities when they consider the transfer of assets to Commission jurisdiction for purposes of creating the RTO. These obligations may be quite specific in their "hold harmless" provisions.

24 - Finally, the smaller utilities served by Bonneville, many of them rural, are concerned that they may not have the same opportunities for alternatives to serve load that might be offered to the larger, urban areas of the Northwest. Because of that they have a particularly strong concern about not losing their current rights to transmission service. Moreover, they are not generally in a position, because of their small size and historic access to administrative services from Bonneville, to take on the administrative burdens associated with participation in FTR auctions.

Alternative Proposals

25 - There have been a number of alternative proposals for some middle ground between those who are concerned about maintaining the rights of incumbents and those concerned about the ability of RTO West's congestion management market to function adequately. The following list is suggestive but not inclusive.

26 - Alternative proposals were made during the RTO West development discussions that would have required the grantees to place their FTRs in the auction, while allowing them to receive the proceeds of the auction. Some proposals limited this requirement to the large FTR holders only, while exempting small entities, or to FTR holders that held over a certain percentage of the FTRs on a path. All of these proposals would have allowed any entity that accurately bid its value (based on looking at its alternative means of meeting loads) to be held harmless even if outbid. They would also have allowed arbitrarily high bids by those who absolutely needed to retain the FTRs.

27 - The Desert STAR proposal allows FTR holders to make “price taker” bids, which means that they will meet the market price and are placed at the top of the bidding stack. Price-taker bidders that are representatives of “Historic Uses” (a defined term) and other specified loads are deemed to win any tie bids. Historic users are awarded the proceeds of the auction, so that the net cost to them is zero, when they win bids.

28 - There could be provision for some sort of staged participation in an FTR auction market, either defined according to the use of the FTRs (native load service vs. “commercial” transactions, for instance) or percentages of the FTRs held (for instance, X percent in the first year, Y percent in the second year, and so forth).

29 - There could be provision, if it is needed to supplement provisions of state law, that grant state commissions the ability to review (with the burden of proof placed on the utility) the utility’s proposed actions regarding its FTRs.

## GETTING BENEFITS TO LOADS

30 - The TOA specifies that the FTRs are granted by RTO West to the executing transmission owner. The underlying concept of the TOA is that the loads paying the company rates get the FTRs (or potentially the benefit from the FTRs) in compensation. However, it is only in the case of vertically integrated utilities without retail access that the transmission owner

is necessarily the representative of the load. In such cases, the benefits can be conveyed to the load through the ETO, since the disposition of the benefits will be overseen by the state commission or other local authority. If there is retail access, as there is or will be in several Northwest states, the load would need to control its own FTRs to access its generation supplier and to give it a choice of suppliers. In these cases, the benefit may need to be conveyed to the load through some other legally approved or otherwise authorized load serving entity, rather than through the ETO. Granting the FTRs in all cases to the transmission owner, which may retain control of generation even as the transmission control goes to the RTO, opens the door to confusion at the least and at the worst, to undue market influence to the detriment of retail access consumers.

31 - Even in the case of Bonneville's public utility loads that are full requirements power customers, granting the FTRs to Bonneville directly, rather than to the customers, can foreclose valuable market opportunities for the customer. If the customer had the FTR, and found a DSM or local generation project that was cheaper than the value of the FTRs in the market, it would be able to sell them and retain the net value. If the Bonneville transmission business owns them, the net value would go back to it rather than the customer utility. The customer utility, would, of course, always have the ability to authorize Bonneville, either its Power Business Line or its Transmission Business Line, to hold the FTRs for the utility and act on its behalf.

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